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Calendar No. 643

101ST CONGRESS
2d Session

SENATE

REPORT
101-336

DRUG TREATMENT WAITING LIST PROGRAM

JUNE 25 (legislative day, JUNE 11), 1990.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 2461]

The Committee on Labor and Human Resources, to which was referred the bill (S. 2461) to reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and unanimously recommends that the bill as amended do pass.

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I. INTRODUCTION

On April 19, 1990, Senator Kennedy introduced S. 2461, a bill to reauthorize and improve the drug treatment waiting list reduction grant program. By unanimous vote on May 16, 1990, the Committee on Labor and Human Resources favorably reported the bill with an amendment. The bill will authorize the Alcohol, Drug Abuse and Mental Health Administration to award an additional $40 million in grants under section 509E of the Public Health Service Act.

39-010

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II. Background

Drug abuse in America remains a disease of epidemic proportions. Among the symptoms of the disease are the thousands of addicts who need, want, and would benefit from treatment, but who are turned away at the clinic door because there are too few treatment slots. This bill to reauthorize the waiting period reduction grant program is one response to that crisis.

The history of the waiting list program is brief. Section 2053 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) authorized the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) to make grants to public and non-profit private entities to reduced the waiting lists at drug treatment programs. $100 million was authorized and appropriated for this purpose.

The 1988 legislation was prompted by widespread reports of overburdened treatment providers denying services to desperate addicts because of inadequate resources. One manifestation of the treatment shortfall was the existence of waiting lists at many treatment programs around the country. These waiting lists had become a vivid symbol of the urgent need for expanded drug treatment capacity in the United States. Indeed, the Anti-Drug Abuse Act of 1988 embodied a fundamental goal: "to increase, to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem." Section 2012(5).

In late 1989, the National Association of State Alcohol and Drug Abuse Directors (NASADAD) quantified the extent of the waiting list problem, as well as the broader need for treatment expansion. A one day survey of treatment providers in 44 states and the District of Columbia found that:

—66,766 persons were on treatment waiting lists on September 25, 1989;

—Approximately 50% of those on waiting lists had been waiting for treatment at least 30 days; and

—The estimated average number of days between request and admission was 22 days for outpatient programs and 45 days for inpatient programs.

Looking beyond waiting lists, NASADAD conducted a study of overall drug and alcohol treatment need. Startlingly, the October, 1989 study found that 1,407,519 Americans were receiving treatment for drug and alcohol abuse, while an additional 10,596,479 people needed but were not receiving treatment.

The $100 million appropriated for the waiting list program in 1988 has been expended, and yet the NASADAD surveys demonstrate that the need for such federal support remains great. While there are other sources of federal support for treatment activities—most notably the ADAMHA block grant—the waiting list program is one of several categorical grant programs administered by ADAMHA that enable federal officials to target resources to populations and geographic regions of especially acute need. These categorical programs complement the more general support provided by the block grant.

Recognizing the importance of the waiting list program, Congress appropriated, subject to the passage of authorizing legislation, an additional $40 million for the program last year (Public Law 101-164, Title IV, Chapter III). A provision authorizing the expenditure of these funds would have been included in the conference report accompanying H.R. 3630, the Emergency Drug Abuse Treatment Expansion Act of 1989, but the report has not commanded a majority of the Senate conferees for reasons that have nothing to do with this particular provision. The dormancy of the conference report accompanying H.R. 3630 led Senator Kennedy to introduce the instant legislation, S. 2649, a free-standing bill to reauthorize the waiting list program.

Earlier this year, the Department of Health and Human Services sought a re-programming of the $40 million to fund treatment improvement grants, medications development and AIDS outreach projects, but the agency was unable to gain the necessary consent of the Senate and House Appropriations Committees. The issue was addressed in the conference report accompanying H.R. 4404, the Dire Emergency Supplemental Appropriations Bill of 1990 (Public Law 101-302). That bill repeals the $40 million appropriation for the waiting list program effective September 10, 1990, and declares that the appropriations committees would entertain a re-programming request at that time. The practical effect of this action is to establish a deadline of September 10 for the reauthorization of the waiting list program, a goal that would be met by passage of this bill.

In addition to reauthorizing the waiting list program, this legislation would enact a series of improvements in the program to assure that the $40 million is expended in the most effective manner possible. These changes, some of which would have been accomplished by the passage of H.R. 3630, are described in the section-by-section analysis contained in section VI, below.

III. Committee Action

S. 2461 was introduced on April 19, 1990 and referred to the Committee on Labor and Human Resources. This bill was considered by the Committee in Executive Session on May 16, 1990. Senator Coats offered an amendment to require that the ADAMHA report mandated by section 4 of the bill include an assessment of the effectiveness of treatment programs funded under the waiting list program. The Coats amendment passed by unanimous voice vote, and the bill as amended was reported favorably by unanimous voice vote.

IV. Text of the Bill as Reported

[S. 2461, 101st Cong., 2d Sess.]

A BILL To reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Treatment Waiting Period Reduction Grant Program Reauthorization and Improvements Act of 1990".

SEC. 2. IMPROVEMENT OF DRUG ABUSE TREATMENT WAITING PERIOD REDUCTION PROGRAM.

Section 509E of the Public Health Services Act (42 U.S.C. 290aa-12) is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following new subsection:

"(c) Subject to the availability of qualified applicants, in awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and non-profit entities—

"(1) drug treatment services to pregnant and postpartum women; or

"(2) after-care services to prevent renewed substance abuse by individuals to whom a substance abuse program that receives assistance under this section has provided treatment services, except that a grantee shall not expend in excess of 50 percent of the amount of a grant awarded under subsection (a) to develop and provide such services."; and

(3) in subsection (e)—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by striking out "and" at the end of paragraph (2); and

(C) by inserting after paragraph (2), the following new paragraph:

"(3) in the case of an applicant that is not a State, an agency of the State in which the applicant is located certifies that the applicant satisfies the conditions described in subsection (b); and".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 509E(f) of the Public Health Services Act (42 U.S.C. 290aa-12(f)) is amended—

(1) in paragraph (1), to read as follows:

"(1) In addition to amounts otherwise appropriated to carry out this section prior to fiscal year 1991, there are authorized to be appropriated an additional $40,000,000 to carry out this section."; and

(2) in paragraph (3), by striking out "$100,000,000" and inserting in lieu thereof "$140,000,000".

SEC. 4. REPORT.

Not later than 6 months after the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit, to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce, a report concerning the waiting period reduction grant program under section 509E of the Public Health Service Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under such section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate and draw-down funds received under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local, and nongovernmental treatment experts with respect to the validity of waiting lists as a measure of treatment need and with respect to the efficacy of the waiting period reduction grant program;

(5) an assessment of the effectiveness of the treatment programs that receive funding under such section, including the usefulness of mechanisms, such as drug testing, that detect renewed substance abuse, and information with respect to the current use of such mechanisms; and

(6) any other information that the Administrator determines to be necessary to a thorough appraisal of the efficacy of the program under such section.

V. Committee Views

This bill is occasioned by Congress' decision last year to appropriate an additional $40 million for the drug treatment waiting list reduction grant program, subject to the passage of authorizing legislation. As the authorizing committee with jurisdiction over the waiting list program and other drug treatment programs, the Senate Labor and Human Resources Committee intends to do everything within its power to see that this $40 million is expended by ADAMHA. The Committee believes it would be shameful if $40 million appropriated for drug treatment were returned to the Treasury at a moment when the need for treatment services in this country is so overwhelming.

The Committee is aware that the waiting list program has engendered a certain amount of controversy. Some contend that waiting lists are not the best measure of treatment need, because not all programs maintain such a list, not all lists are kept current and addicts may place their names on more than one list. Also, the waiting list phenomenon may be attributable, in part, to the absence of a central screening process for addicts; a recent GAO study of methadone programs found that some programs were placing addicts on waiting lists while other programs in the same city had vacant slots. Finally, some contend that the waiting list program is not sufficiently far-sighted, because it provides a single infusion of resources for treatment programs that may lack long-term funding.

While the Committee recognizes that waiting lists may not be the best measure of treatment need, they are one of the only measurements in use at this time. In any event, waiting lists may underestimate treatment need because not all programs keep a list, and when the lists are too long, addicts may be discouraged from leaving a name.

While the degree of waiting list accuracy may be questioned, there can be no doubt that there is a significant waiting list problem. As noted above in section II, a one day NASADAD survey of treatment providers in 44 states and the District of Columbia found that: (1) 66,766 persons were on treatment waiting lists on September 25, 1989; (2) approximately 50% of those on waiting lists had been waiting for treatment at least 30 days; and (3) the estimated average numbers of days between request and admission was 22 days for outpatient programs and 45 days for inpatient programs.

The fact remains that there is a critical shortage of treatment slots. Waiting list reduction grants are one way of providing urgently needed resources to the most overburdened programs.

To be sure, the efficacy of the waiting list program should be subject to continuing scrutiny. Section 4 of the bill calls upon ADAMHA to prepare and transmit a comprehensive report on the program. The Committee expects that the Administrator's report will air all questions about and criticisms of the program and provide a basis for determining whether the program should be authorized in the future. If waiting lists are not the best measure of treatment need, we must ascertain a better measure of need or a more effective mechanism for targeting federal resources to the most overburdened treatment programs.

The Committee flatly rejects the view, however, that the $40 million already appropriated for this program should be returned to the Treasury merely because these questions have been raised. NASADAD and every other informed observer of the drug treatment system in the United States have concluded that there is a dire need for increased federal resources. Authorizing the expenditure of an additional $40 million for waiting list grants will provide immediate relief to thousands of our fellow citizens who desperately want to end their life-draining addictions.

There will be ample time to fine-tune these treatment funding mechanisms. In the meantime, one way or another, we must deliver these urgently needed federal treatment resources to the thousands of addicts who are turned away at the clinic door. Our failure to do so is a disservice to them and to ourselves, because every addict we do not treat is a potential criminal we may need to incarcerate.

A question has also been raised about the ability of ADAMHA to spend the $40 million before the end of the fiscal year in which the money was appropriated, fiscal year 1991. The Administration has expressed concern that such a deadline would be unrealistic because the procedure for soliciting grant applications typically spans a period of several months.

It is the Committee's view that ADAMHA need not meet such a deadline, because current law does not require it. Subsection (f)(2) of section 509E of the Public Health Services Act states that amounts appropriated for the program "shall remain available until expended." The Committee interprets this phrase to mean that appropriated funds need not be expended by ADAMHA in any particular fiscal year. Rather, such funds "remain available" from one fiscal year to the next "until expended." Thus, the $40 million appropriated in fiscal year 1990 may be expended by ADAMHA in fiscal year 1991 or even later.

The Committee does not understand there to be any ambiguity about the meaning of subsection (f)(2) in current law, but to the extent that an opportunity arises to make the language even more plain, the Committee would endorse such a clarification.

VI. Section-by-Section Analysis

Section 1

This section provides that the Act may be cited as the "Drug Treatment Waiting Period Reduction Grant Program Reauthorization and Impovements Act of 1990."

Section 2

Section 2 of the bill would improve the waiting list program in four respects:

First, the bill strikes subsection 509E(d) of the Public Health Service Act, which prohibits the Secretary from making more than one waiting list grant to any single treatment program. The proscription would no longer be appropriate if the waiting list program is transformed into a multi-year effort.

Second, in awarding waiting list grants, ADAMHA would be required to give priority to programs that serve pregnant and postpartum addicts. Recent studies provide dramatic evidence that substance abuse among child-bearing women has devastating consequences for their offspring. Dr. Ira Chasnoff of the National Association for Perinatal Addiction Research and Education estimates that 375,000 newborns are affected by their mother's substance abuse, a figure that represents 11% of all live births. The Inspector General of the Department of Health and Human Services recently projected that there may be 4 million so-called "crack babies" by the year 2000.

Yet many treatment providers are reluctant to serve pregnant addicts because they are ill-equipped to provide comprehensive prenatal care or social services and because they fear liability. A 1989 study conducted by Professor Wendy Chavkin of Columbia University found that less than half of the drug treatment programs in New York City were willing to admit pregnant addicts. Establishing a "pregnant addict priority" within grant programs is one way to encourage the expansion of services for this afflicted population.

Third, the bill would establish a priority for programs that provide aftercare. Treatment experts concur that addicts are most likely to benefit from treatment if they receive continuing support after they have completed the formal component of the treatment regiment. This is especially true for addicts who complete residential programs, only to return to the community or family environment that may have fostered the addict's drug abuse in the first place.

Finally, the bill establishes a requirement that state agencies certify the existence of waiting lists on behalf of applicants that are not themselves states. This requirement will provide greater assurance that waiting list grants are being awarded to programs that are, in fact, the most overburdened.

Section 3

Section 3 of the bill amends Section 509E(f) of the Public Health Services Act to increase the authorization level for the waiting list program by $40 million, from $100 million to $140 million. Of course, $100 million of the authorized funds have already been expended on waiting list reduction grants, so the bill authorizes an additonal $40 million. This is the amount that Congress has already appropriated for the program.

As introduced, section 3 of S. 2461 simply increased the authorization level for section 509E to $140 million. This language might have been susceptible to the erroneous interpretation that the Committee intended to authorize $140 million in addition to the $100 million already expended. To eliminate any possible ambiguity, there has been a technical correction of section 3 of the bill since the mark-up. (Authority to make such corrections was delegated to the staff by unanimous consent at the mark-up.) The bill now clearly authorizes $40 million, not $140 million.

Section 4

Section 4 of the bill requires the ADAMHA Administrator to prepare and transmit to the appropriate congressional committees a comprehensive report concerning the waiting list reduction grant program. This report, which is to be available within six months of enactment of the bill, is to include:

(1) a list and description of the programs that have been awarded waiting list reduction grants;

(2) a description of the process by which funds awarded under this section are expended;

(3) an assessment of the validity of waiting lists as a measure of treatment need;

(4) the views of interested parties with respect to the waiting list program;

(5) an assessment of the effectiveness of the treatment programs that receive funding, including the usefulness of mechanisms, such as drug testing, that detect renewed substance abuse, and information with respect to the current use of such mechanisms; and

(6) any other information that the Administrator determines to be necessary to his appraisal of the program.

The purpose of this report is to give ADAMHA an opportunity to address a number of unresolved questions about the waiting list program. As noted in section V, above, some have questioned the validity of waiting lists as a measure of treatment need. This report will afford ADAMHA an opportunity to study this and other pertinent questions.

As a result of an amendment offered in committee by Senator Coats, the report will include an assessment of the effectiveness of treatment programs that receive grants under the waiting list program. The Committee recognizes that it will be difficult for ADAMHA to reach definitive conclusions about the effectiveness of particular programs in only six months, but a preliminary assessment may be feasible. At the Committee mark-up, Senator Coats indicated that he is particularly interested in learning about the

use of drug testing as a means of assuring compliance with a treatment regimen.

VII. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 22, 1990.

Hon. Edward M. Kennedy,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached revised cost estimate for S. 2461, the Drug Treatment Waiting Period Reduction Grant Program Reauthorization and Improvements Act of 1990, as ordered reported by the Senate Committee on Labor and Human Resources on May 16, 1990. The revision reflects a technical change made in the bill language.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2461.
2. Bill title: Drug Treatment Waiting Period Reduction Grant Program Reauthorization and Improvements Act of 1990.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on May 16, 1990.
4. Bill purpose: To reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization levels:					
Grants to reduce waiting period for drug abuse treatment	40				
Report	(1)				
Total estimated authorization levels	40				
Total estimated outlays	14	22	4		

[1] Less than $500,000.

The cost of this bill fall within budget function 550.

Basis of estimate: S. 2461 would reauthorize a grant program to reduce the waiting period for entrance into drug abuse treatment programs. The bill specifies an additional authorization of $40 million, above the current authorization level of $100 million, for this activity. Funding would remain available until expended.

In addition, the bill would require the administrator of the Alcohol, Drug Abuse, and Mental Health Administration to submit a

report to Congress, describing how the funds were expended, assessing the validity of waiting lists as a measure of treatment need, as well as assessing the effectiveness of the treatment programs that received grants. The CBO estimates that the report would cost less than $500,000 in fiscal year 1991.

This estimate assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

6. Estimated cost to State and local government: None.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO prepared a cost estimate of S. 2461, on June 8, 1990. At that time, the bill authorized $140 million for the Drug Treatment Waiting Period Reduction Grant Program. The revised bill language states explicitly that the intent is to add $40 million to an existing authorization of $100 million.

9. Estimate prepared by: Karen Graham.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

VIII. Regulatory Impact Statement

This Committee has determined that this bill will result in a small increase in regulatory burden and paperwork.

The bill would reauthorize an existing, albeit dormant, grant program. As a result, the Alcohol, Drug Abuse and Mental Health Administration should already have in place administrative procedures for carrying out the requirements of this bill. A small amount of additional paperwork will be generated by the requirement in S. 2461 that the Administration prepare a comprehensive report on the efficacy of the waiting list reduction grant program.

IX. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Health Service Act

* * * * * * *

PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH

Sec. 509A. (a) * * *

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REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT

Sec. 509E. (a) * * *

* * * * * * *

(c) Subject to the availability of qualified applicants, in awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and non-profit entities—

(1) drug treatment services to pregnant and postpartum women; or

(2) after-care services to prevent renewed substance abuse by individuals to whom a substance abuse program that receives assistance under this section has provided treatment services, except that a grantee shall not expend in excess of 50 percent of the amount of a grant awarded under subsection (a) to develop and provide such services.

[(c)] *(d)* The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that the payments will not be expended—

(1) to provide inpatient hospital services;

(2) to make cash payments to intended recipients of services under the program involved;

(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

[(d) With respect to a public or nonprofit private entity, the Secretary may not, under subsection (a), make more than one grant to the entity.]

(e) * * *

* * * * * * *

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; [and]

(3) in the case of an applicant that is not a State, an agency of the State in which the applicant is located certifies that the applicant satisfies the conditions described in subsection (b); and

[(3)] *(4)* the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(f)[(1) For the purpose of carrying out this section, there is authorized to be appropriated $100,000,000.] *(1) In addition to amounts otherwise appropriated to carry out this section prior to fiscal year 1991, there are authorized to be appropriated an additional $40,000,000 to carry out this section.*

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(3) No grant may be made under this section after the aggregate amounts obligated by the Secretary pursuant to this section are equal to [$100,000,000.] *$140,000,000.*

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